

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0544P**

Gross Income Tax  
Calendar Years 1995, 1996, 1997

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer, incorporated in Pennsylvania was audited for calendar years 1995, 1996, and 1997. Upon audit it was discovered that the taxpayer failed to report sales, in Indiana Gross Income, made from its Indiana warehouse and shipped to its customer in Indiana.

I. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer was assessed a negligence penalty because it failed to report gross income from sales to Indiana customers. Taxpayer had sorted its sales based upon the "bill to" rather than the "ship to" address. In addition, taxpayer failed to add back all real estate and property taxes for 1996 and 1997 and failed to include the federal adjustments for 1995.

Taxpayer, in a letter dated September 24, 1999 protested penalties assessed and states that it was the first audit conducted by Indiana, it had no intention of defrauding the State of Indiana, it makes every effort to pay what it owes to all taxing bodies, it discovered the proposed adjustment during a preliminary review of each apportionment factor prior to the auditor arriving and the auditor was

presented with this adjustment.

The department agrees that the taxpayer did not intentionally disregard the laws and regulations of Indiana but finds that the taxpayer was negligent in failing to remit the proper amount of tax. The assessment consisted of over fifty percent (50%) tax due and the primary issue is the reporting of Indiana Sales in Gross Income.

The taxpayer did not show reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.